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PR

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/630,938 08/02/00 LUSSIER

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021323 QM12/0530
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EXAMINER

PATTERSON, M

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

05/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/630,938

Applicant(s)
Lussier

Examiner
Marie Patterson

Art Unit
3728



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the different thicknesses (as claimed in claims 12-16), different materials (as claimed in claims 17 and 18), and an intermediate layer (as claimed in claims 32-34) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

2. Claims 1-25, 27, 28, 33, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1-8, 14, and 27 the phrase “finger-shaped” is vague and indefinite and it is not clear what structural limitations applicant intends to encompass with such language.

In claim 5 the phrase “a fold line” is vague and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

In claims 20 and 28 the phrase “comprising a plurality of elements” is confusing, vague, and indefinite because it is not clear what structural limitations applicant intends to encompass with such language. The specification shows and describes a chassis which is a single integrally formed element.

Claim 21 is confusing, vague, and indefinite.

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In claims 24, 25, and 31 the phrase "is configured to extend from ...into a cleat" is vague and indefinite because it is not clear what structure is positively recited or what "a cleat" is intended to encompass.

In claim 33 the phrase "is a film" is vague and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6-9, 19-21, and 26-30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Thomas (444735).

5. Claims 1-3, 5-9, 19-21, and 26-30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hiss (1484785).

6. Claims 1, 2, 4-9, 19-21, and 26-30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Trimpop (German 29700699).

7. Claims 1-3, 5-9, 12, 14, 19-21, 26-30, and 32-34 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Giese (5572805).

Giese shows a chassis (figures 111-116, or 127) as claimed.

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In reference to claims 32-34, Giese shows a shoe sole with skin layer (the bottom layer in figures 112-115), an intermediate film (shown in figures 112-115, which inherently has color), and a chassis (19).

8. Claims 1, 3, 5-9, and 19-31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hockerson (WIPO 98/20763).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiss.

Hiss shows a chassis comprising forefoot fingers (5) and rearfoot figures (3) and an opening (6) substantially as claimed except for the exact shape of the opening. The shape of the opening is considered to be a choice of design and it would have been obvious to make the opening in the shape of a chevron to make the opening easier to manufacture/cut.

11. Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Hiss in view of Kendall (5713143).

Hiss shows a chassis substantially as claimed except for the opening being open to the side. Kendall teaches opening a heel area to the side in a chassis. It would have been obvious to

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provide a side opening as taught by Kendall in the chassis of Hiss to increase flexibility and comfort in the heel area.

12. Claims 10, 13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giese.

Giese shows a shoe sole with a chassis substantially as claimed except for the exact shape of the opening in the heel and the exact thickness variations. The shape of the opening is considered to be choice of design and it would have been obvious to make the opening in the shape of a chevron to make the opening easier to manufacture/cut. Giese teaches in figures 93, 102, and 105 to make a chassis of varying thickness heel to toe. It would have been obvious to vary the thickness of the chassis in the heel to toe direction as taught by Giese in figures 93, 102, and 105 in the chassis shown by Giese in figures 111-116 or figure 127 to increase support in the heel area where increased support is needed and less flexibility is required.

In reference to claims 17 and 18, Giese teaches the well known use of different materials to provide different properties in different areas (column 13 lines 15-40). It would have been obvious to use different materials in different regions of the chassis of Giese to provide increased flexibility in areas which require such.

13. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 **Customer Service Center** number is **(703)306-5648**.


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For applicant's convenience, the Group Technological Center FAX number is (703) 305-3580. Please identify Examiner ____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Valerie Douglas at (703)308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.


Marie Patterson
Primary Examiner
Art Unit 3728

MDP

May 24, 2001